

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4501 Ocean Drive

Tuesday, July 28, 2009

7:03 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clotney were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Minnet pulled Old Business item 15f as it duplicated item 15h.

Commissioner Silverstone removed New Business item 16j as he put that on the agenda without Marc Furth's knowledge. He said that Mr. Furth had rejected it due to the political environment.

Commissioner Clotney pulled Presentation item 4a as the presenter was not available.

3. INVOCATION - Reverend George Hunsaker

Reverend George Hunsaker gave the Invocation.

4. PRESENTATIONS

a. Presentation - Wind Energy (Commissioner Clotney)

Commissioner Clotney pulled this item.

b. Presentation - Solar Lighting (Commissioner Clotney)

Commissioner Clotney invited Mr. Perez to do his presentation.

Gregory Perez, Sol Inc. gave a brief presentation regarding solar outdoor lighting. He explained that LED lights provided a minimum of 60,000 hours of operation and 5 nights of lighting. Mr. Perez added that LED lighting was a turtle friendly amber light.

Mayor Minnet questioned whether the lights would fit to the current poles. Mr. Perez stated that a new pole would be required. Vice Mayor McIntee asked whether the lights could be put on FPL poles. Mr. Perez indicated that he had not inquired as to whether they would allow it. Mr. Perez indicated that the cost would be \$1800 with the pole and under \$3,000 per fixture to install. Commissioner Silverstone questioned the long term cost effects such as battery replacement. Mr. Perez stated approximately \$200. Commissioner Clotey inquired of decorative lighting. Mr. Perez said they did have decorative lighting and were coming up with contemporary fixtures. Commissioner Clotey asked about available grants. Mr. Perez believed there were available grants out there and would look into it.

c. Presentation of proclamation proclaiming August 22, 2009 as Honeybee Awareness Day (Mayor Minnet)

Mayor Minnet read the proclamation into record and presented the proclamation to Dr. Leo Gosser. Dr. Gosser spoke of the importance of the honey bee to mankind and noted that the honeybee was in danger of collapse. He requested that people call a beekeeper rather than an exterminator.

d. Presentation - El Mar Drive Streetscape - Chen & Associates, Ocampo & Associates

Ben Chen and Shaun Bamforth gave their presentation on the El Mar Drive Redevelopment project. Mr. Bamforth stated that undergrounding or lighting was not included in their estimate. He estimated that the drainage for sewers and everything else would cost approximately \$4.5 million. He broke it down to approximately \$800,000 from Pine Avenue to Hibiscus Avenue, and about the same from Hibiscus Avenue to Datura Avenue and about \$500,000 from Datura Avenue to Commercial Boulevard.

Mr. Bamforth looked at the first place winner with the meanderings path, the second place design also with a path down the center and a shade structure and the third place winner which was similar in design with shade structures and path down the middle. He said Option 1 had a two lane option and option 2 had a one lane option which would provide up to 500 parking spaces that would cost 2% to 3% more and would generate revenue in 2 years that would pay for the additional cost.

Commissioner Silverstone asked that from Commercial Boulevard to Palm Avenue, the center lane would cost approximately \$1 million with curvature for drainage issues. Mr. Bamforth agreed the \$1 million was for the center lane only; the drainage would come later. Commissioner Silverstone was against one lane of parking. He believed it took away from the beauty.

Commissioner Clotey asked whether current trees would be used. Mr. Bamforth stated that they budgeted for the trees that were currently in front of Oriana and would relocate current trees.

Commissioner Dodd questioned 12% construction value of mobilization and MOT. Mr. Bamforth said 12% was Broward County standard and 15% was the designed budget number and would have to look at administrative overhead. Commissioner Dodd confirmed that 20% off the top would be required as part of the project cost. Mr. Bamforth agreed.

Vice Mayor McIntee asked how long it would take to do the project once the go ahead was received. Mr. Bamforth believed it would take 6 months for design and permitting and an additional 7 months for construction; approximately 1 1/2 years from the go ahead.

Mayor Minnet questioned staggering parking times. Mr. Bamforth said parking could be set up for various times but would need to be cleared with Broward County.

Raul Ocampo and Ernie Ojito, Ocampo and Associates gave his presentation on the El Mar Drive Streetscape project and focused on the medians.

Mr. Ojito looked at the 4 different scenarios in the right of ways and inquired of the existing drainage system which he believed to be a separate project. Mr. Ojito believed the \$1 million would only be able to be applied to the south side of Commercial Boulevard. He suggested a scooter charging station as part of a green area and incorporated doggie areas and misters along the walk way. Mr. Ojito said there was no power to the median and suggested solar walkway lighting. He indicated there currently was no solar lighting approved for turtles. He suggested a stamped walkway, a dog drinking station, benches and a monument sign on the south end. Mr. Ojito broke the area down into 4 islands for budgeting purposes at \$1.5 million including the island north of Commercial Boulevard. He believed they would be able to do 3 islands with \$1 million.

Commissioner Dodd questioned the total overhead at 27%. Mr. Ojito stated that the 27% included the contractor/construction fee. Mr. Ocampo said the 15% was the overhead for the contractor and the remaining was Ocampo's consulting fees.

Mayor Minnet stated that at tentative millage rate of 3.9990 was approved at the previous budget hearing which represented a savings of 10.80%. She stated that the next budget meeting was on September 14, 2009 and looked forward to citizen input.

5. PUBLIC COMMENTS

Cristi Furth was impressed with the El Mar designs. Ms. Furth believed people should speak only once during Commission meetings.

Robert Kramer thanked the VFD for setting up poles and signs regarding rip tides. He suggested renaming the last pole with the number zero and to trim the foliage on the welcome sign.

Sandra Booth was disappointed with the cost of the new trash service. She said they were being charged as an individual unit.

Buster Celestino was upset over the transfer of Chief Scott Gooding.

Barbara Cole was upset with backup for the audit services as she believed it was not a legal contract.

Edmund Malkoon provided a copy of a Florida company that sold armed gates as well as streetlights for the Commission to review. Mr. Malkoon stated that the monument project had been approved and suggested that any future entryway signs contain the same design.

Chad Purcell was approached by BSO when surfcasting on the beach and was told it was illegal. He said the State Law indicated that surfcasting was allowed between the hours of 6:00 p.m. and 9:00 a.m. Mr. Purcell asked the Commission to consider changing the current ordinance.

Rosalie Malkoon said she had the right to speak and the Mayor had the right to remove those who were irresponsible.

Cindy Geesey believed the budget presentation was excellent. Ms. Geesey believed burying lines should take precedence over doggy baths.

Scot Sasser was upset with the removal of Chief Scott Gooding.

Louis Marchelos proposed a proclamation to Chief Scott Gooding.

Bob Fleishman did not believe the Town needed 5 fire trucks.

Diane Boutin favored sidewalks but was not in favor of spending \$1 million on beautifying El Mar Drive. She suggested fixing the infrastructure.

Maureen McIntee stated that Mr. Burton had indicated that it was common for fire fighters and emergency vehicles to ride out at the same time.

Bill Vitollo believed in underground wiring and certified fire fighters.

Frank Herrmann believed a decision should be made regarding the beach permit fees. Mr. Herrmann stated that if kite surfing was allowed in the south it should also be allowed in the north. He favored public speakers to give their full address.

Mayor Minnet authorized a break at 8:45 p.m.

6. REPORTS

a. Finance and Budget Monthly Report - June 2009 (Manager Colon)

Commissioner Silverstone made a motion to accept the report Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

b. Development Services Monthly Report - June 2009 (Assistant Town Manager Olinzock)

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

c. Municipal Services Monthly Report - June 2009 (Assistant Town Manager Olinzock)

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

d. BSO Police Monthly Report - June 2009 (Lt. Angelo Cedeno)

Vice Mayor McIntee made a motion to accept the report. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

e. VFD Fire Monthly Report - June 2009 (Chief Perkins)

Commissioner Dodd asked how many hours a week it took to be a Fire Chief and whether it was a full time job. Chief Perkins said he and Fire Inspector Payne did 402 fire inspections since January 2009 to date. He said year to date fire calls were 247, an average of 28 per month and 674 medical calls or 75 per month. Commissioner Dodd asked whether people in the boat wore life jackets at all times. Chief Perkins said yes. Commissioner Dodd questioned the alarm call close to midnight and again later for training. Chief Perkins said due to lightening the VFD had to reset the alarm and felt there was an opportunity to allow training so they went back later.

Commissioner Clotey asked for a status on hiring outside trainers. Chief Perkins said VFD had 5 certified trainers and an outside certified trainer for the boat. Commissioner Clotey questioned experience on the use of Jaws of Life. Chief Perkins said they practiced on donated vehicles for training purposes twice a year. Commissioner Clotey asked whether Chief Perkins could use outside trainers. Chief Perkins said he was satisfied with the trainers he had and would look into outside trainers.

Vice Mayor McIntee asked whether anyone was paid for the drill at Europa. Chief Perkins said they were not.

Mayor Minnet asked Chief Perkins to name the 5 trainers. Chief Perkins stated they were Joseph Paton, Mark Conn, Jerry McIntee and Jerome McIntee. He said he would provide the other name at a later date.

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

f. AMR EMS Monthly Report - June 2009 (Operations Manager Liddle)

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

7. PUBLIC SAFETY DISCUSSION

8. TOWN MANAGER REPORT

a. Solid Waste Update

Manager Colon stated that Waste Management was the same as Choice and the Town was to comply with code. She presented a PowerPoint which showed many overloaded trash containers with garbage spilling over and unauthorized trash containers. Manager Colon stated that either more containers or larger containers were needed. She also noted that bulk items were placed out with garbage and stated that bulk items were only picked up on bulk pick up days. Manager Colon noted that the more the Town recycled the more grant money the Town would be entitled to. She said that Lauderdale By-The-Sea rated the lowest on the list for recycling. Manager Colon said that some businesses shared garbage pickup with other businesses. She said they need to write a letter to Choice and explain.

Mayor Minnet invited Mike Sevino and Ellen Kirby to speak.

Ellen Kirby stated that her garbage went up 49% because she had 3 units and she only had 3 people.

Mike Savino, Choice Environmental Systems, said he would leave his cards for people to call him with their issues.

Commissioner Clotey stated that one person consistently asked for relief on her bills and some people had not paid what they were supposed to. Commissioner Clotey said some people paid what the code required and some people paid less. Manager Colon said that the code stated that a certain amount of toters were required and perhaps those particular people did not meet the requirements before and needed to comply with

Code. Manager Colon said unless their name and address was available the Town would not know what they paid for.

Mike Savino stated that there was a gap between the 96 gallon carts and the minimum 2 cubic yard dumpster. He added that at the Mayor's request Choice had put together a price structure to fill the gap between the 1 cubic yard dumpster and the blue totes. He hoped this would close that gap.

Commissioner Clotey asked whether a smaller toter could be offered to some single family homes. Mike Savino said the toter was the same size that was provided by the previous waste hauler. He said the cost would not be altered by the size. Mr. Savino stated that should someone have special needs they would bring the toter out for that person.

John Ferguson wanted to go on site and visit the people with the issues and try to work things out and comply with code.

Vice Mayor McIntee asked Mr. Savino how the decision to use blue totes came about.

Mike Savino explained that Waste Management's company color was green and Choice's company color was blue. Vice Mayor McIntee asked whether any Commissioner asked for a specific color. Mr. Savino said they did not; he always had a blue truck.

Commissioner Dodd had a problem with the lid being closed as palm prods did not fit inside. Mr. Savino stated that if the lid was open all the trash would be distributed all over the street when the dumpster lifted the can. Mr. Savino said there were exceptions.

Commissioner Dodd believed that extra totes would be picked up by Choice if they were not needed. Mr. Savino agreed.

Commissioner Silverstone stated that he was looking in the direction of amending the ordinance to meet the needs of the community in a fair and equitable way and asked for input from Choice. Mr. Savino stated that prior to the 4th of July event Choice had emptied every toter without charge, so that people would see clean garbage cans during the event. He said that was the relationship his company wanted with the Town.

Mayor Minnet thanked Mr. Savino and stated that his responsiveness to the community was well appreciated.

b. Tennis Program

Manager Colon stated that the Tennis program was in effect for 30 days with approximately 20 participants, children and seniors. She requested confirmation that the Tennis program would continue so she could inform the instructor.

c. Swimming Program

Manager Colon stated that the parents of the children involved with the Tennis program showed interest in a swimming program for their children along with Tae Kwon Do.

d. Insurance on Town owned Tree

Manager Colon stated that FEMA had informed her that they would not reimburse the Town for mature trees. She said it would cost \$80,000 to insure the trees. Mayor Minnet pointed out that FEMA would reimburse smaller trees and confirmed the cost was \$80,000 for the insurance.

Commissioner Dodd made a motion not to seek an \$80,000 insurance policy and replace lost mature trees with smaller ones. Commissioner Silverstone seconded the motion. The motion carried 5-0.

9. APPROVAL OF MINUTES

- a. June 23, 2009 Regular Meeting Minutes**
- b. June 30, 2009 Special Meeting Minutes**
- c. July 14, 2009 Budget Workshop Minutes**

Commissioner Silverstone made a motion to approve the June 23, June 30 and July 14, 2009 minutes. Commissioner Clotey seconded the motion. All voted in favor.

10. ORDINANCES

1. Ordinances 1st Reading - "Public Comments"

- a. Ordinance 2009-26: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 20, ARTICLE VI, SECTIONS 20-121, 20-122, 20-125, AND 20-126 PROVIDING ADDITIONAL WATER CONSERVATION REGULATIONS; CREATING NEW SECTION 20-126 ENTITLED "WATER CONSERVATION"; RENUMBERING EXISTING SECTIONS 20-126 AND 20-127 AS SECTIONS 20-127 AND 20-128; PROVIDING FOR CODIFICATION IN ARTICLE VI OF CHAPTER 20 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE**

Attorney Trevarthen read Ordinance 2009-26 by title.

Assistant Town Manager Olinzock explained that the Town did not have their own water utility; Ft. Lauderdale provided for the south part of Town and the City of Pompano Beach provided for the north part of Town. He explained that the Ordinance was before

the Commission because Lauderdale By-The-Sea needed to comply with those City Ordinances and was also a requirement of the Comprehensive Plan. Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Silverstone made a motion to approve on 1st reading. Commissioner Clotey seconded the motion.

Commissioner Dodd thanked Municipal Services for the Florida friendly landscaping and cutting down on water usage by 1/3rd. He asked why there was no penalty in the Ordinance. Attorney Trevarthen stated that the ordinance mirrored the City of Ft. Lauderdale Code and the City of Pompano Beach Code. Commissioner Dodd asked whether there were penalties in place if the ordinance was not obeyed. Assistant Town Manager Olinzock said there was an Ordinance in place that currently enforced water conservations and had not been a major issue with Code Enforcement.

Commissioner Silverstone was not comfortable and wanted to include penalties. Attorney Trevarthen stated that it could be placed and pointed out that there was a current ordinance in place for compliance. Commissioner Silverstone wanted to show the existing code in the ordinance. Attorney Trevarthen said she would add it.

The motion carried 5-0.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

- a. Ordinance 2009-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-21 "NON-CONFORMING USES AND STRUCTURES" TO AMEND REQUIREMENTS FOR CONTINUATION OF NON-CONFORMING USES AND STRUCTURES; AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS," SECTION 30-123 "APPLICATION FOR FINAL SITE PLAN APPROVAL" TO CLARIFY THE REQUIREMENTS FOR AN APPROVED SITE PLAN TO REMAIN EFFECTIVE; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-211 "RS-5 DISTRICT—RESIDENCE" TO AMEND ROOF OVERHANG SETBACK REQUIREMENTS IN THE RS-5 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-261 "B-1-A DISTRICT-BUSINESS" IN ORDER TO PROVIDE THAT BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1-A DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-271 "B-1 DISTRICT- BUSINESS" IN ORDER TO PROVIDE THAT COOKING SCHOOLS, CATERING BUSINESSES, MOTORIZED SCOOTER OR MOPED SALES AND RENTALS, AND BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-313 "GENERAL PROVISIONS" IN ORDER TO AMEND THE REQUIREMENTS FOR FENCES,

WALLS, AND HEDGES AND TO PROVIDE DEVELOPMENT STANDARDS FOR DRIVEWAYS, SWALES, AND GENERATORS; FURTHER AMENDING ARTICLE VIII "SIGN REGULATIONS," SECTION 30-507 "DEFINITIONS AND RESTRICTIONS BY SIGN TYPE," TO AMEND THE DEFINITIONS OF "SIGN," "INFORMATIONAL, DIRECTIONAL OR TRAFFIC CONTROL SIGN," AND "REAL ESTATE SIGN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE Approved 1st reading April 14, 2009

Attorney Trevarthen read Ordinance 2009-10 by title.

Attorney Trevarthen pointed out that on page 8 between lines 247 & line 322 the language should have been underlined in the packet as it was a new addition. Mayor Minnet opened the meeting for public comments.

Attorney James White reviewed the changes to the ordinance since the last reading, beginning on lines 241 through 322, that showed new language that provided the ability for a residential property owner that was non-conforming with regards to height, setbacks and density to rebuild. He added that on page 15, lines 576 through 578, provided that zero scape plantings were allowed to be planted in the swale area. Attorney White explained further that on page 16, lines 590 through 599, provided that any plantings or removals of landscape materials within the swale area by the abutting property owner, would be required to obtain a permit as well as a hold harmless agreement.

Barbara Cole wanted to know what was required to rebuild to existing structure.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Dodd asked for clarification that a non-conforming building would be allowed to build back to the same footprint even though they may need to go higher. He also questioned the issue of responsibility for watering the grass and maintaining the grass between sidewalk and roadway. Commissioner Dodd believed that if the responsibility was that of the homeowner then the homeowner should have the right to put in zeros cape rather than grass.

Attorney White stated that the language allowed for non-conforming residential properties that were non-conforming to height, density or setbacks, to be re-built and had to comply with the conditions listed on top of on page 8 (a) and (b). He added that that language was the same language that currently existed in the Charter. Attorney White explained that current code required the abutting property owner to maintain the swale area. He said the Commission requested to allow zero scape plantings or materials to be allowed in the swale to avoid daily watering. Attorney White said language on the bottom of page 15, at line 576, allowed zero scape plantings or materials in the swale area. He added that on page 16 line 586, the sentence before

the requirement for a permit stated that in those instances where an abutting property owner planted trees or other landscaping materials within the swale area, they would be responsible for damage caused by the roots of that material.

Commissioner Clotley believed the issue of the Town putting in the trees on Seagrape and installing irrigation was unfortunate but she did not believe the Town could afford to do the same in every swale in Town.

Vice Mayor McIntee made a motion to approve Ordinance 2009-10 on second reading. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- b. Ordinance 2009-12: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 17 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," ARTICLE VI "SIDEWALK CAFÉS," SECTION 17-89 "REQUIREMENTS OF A SIDEWALK CAFÉ PERMIT;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE Approved 1st reading July 14, 2009

Attorney Trevarthen read Ordinance 2009-12 by title.

Attorney Trevarthen pointed out that the word "removable" was removed. She added that the word "removable" should have been struck through.

Mayor Minnet questioned whether sidewalk cafe applied to anyone's sidewalk whether it was a private building on private land or public. Attorney White said there was no distinction in the Code between a public or privately owned sidewalk.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Clotley made a motion to adopt Ordinance 2009-12 on second reading. Commissioner Dodd seconded the motion. The motion carried 5-0.

- c. Ordinance 2009-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 13 "NOISE" OF THE CODE OF ORDINANCES TO PROVIDE FOR AMENDED NOISE REGULATIONS; AMENDING CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE VIII "SPECIAL EVENTS" TO AMEND THE REGULATIONS OF SPECIAL EVENT PERMITS TO PROVIDE GROUNDS FOR DENIAL OF A SPECIAL EVENT PERMIT FOR VIOLATION OF NOISE AND OTHER TOWN STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE Approved 1st reading April 14, 2009 Deferred at the June 9, 2009 Commission meeting by Vice Mayor McIntee

Attorney Trevarthen read Ordinance 2009-14 by title. Mayor Minnet opened the meeting for public comments.

Guy Contrada stated that he took a decibel reading in Jarvis Hall prior to the beginning of the meeting and it registered at 75. He stated that if someone was to stand at the property line at Aruba between the hours of 7:00 a.m. and 10:00 p.m. it would be over 75 decibels. He suggested that perhaps the hours could be changed to 7:00 a.m. to 12:00 p.m. and from 12:00 p.m. to 10:00 p.m. Mr. Contrada agreed that he would not want to be at work at 7:00 a.m. with music at 75 decibels. He believed the decibel should be changed to 85 or 90 decibels as his dining room, with no music and general conversation was 80 decibels. Mr. Contrada believed the decibels and the times should be looked at. He said no business owner wanted to violate code and music was important to the Town.

Diane Boutin believed music was important to the Town and felt that a reasonable standard needed to be set for special events.

Joe Brennan agreed that there should be an acceptable level for businesses and residents.

Bill Patello believed that people wanted to hear music.

Louis Marchelos believed the problem with the ordinance was enforcement.

Barbara Cole stated that no one liked the ordinance and believed it should be passed over.

Ron Piersante wanted to know who came up with a decibel of 75 and how many people actually complained.

Rosallie Malkoon wanted to know if the Commission would act according to what the people said.

Bob Fleishman never heard anyone say they did not like to hear music.

With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Silverstone stated that this ordinance had nothing to do with businesses. He said that the current ordinance did not work and this ordinance was to change the old ordinance and make it work. Commissioner Silverstone believed something was obviously wrong and the Commission should up the decibel points between 7:00 a.m. and 10:00 p.m. and change the hours from 10:00 p.m. to 7:00 a.m.

Commissioner Silverstone made a motion to change the decibel points from 75 to 85 and, on line 336, lower the decibel point from 75 to between 60 and 75. Vice Mayor McIntee seconded the motion.

Commissioner Dodd believed the wrong version of the Ordinance was in the back up as the version that passed first reading included a fireworks clause.

Manager Colon referred to line 105. She believed the Commission said the unpermitted explosion of fireworks, skyrockets, roman candles. She added that the subsection would not prohibit organized fireworks at the July 4th event. Manager Colon explained that was what staff understood. She added that if the Ordinance prohibited those then the Town would never have fireworks. Manager Colon said if staff misunderstood she apologized.

Commissioner Dodd agreed that was the version that passed on July 9, 2009 and that clause was not in the current version and the map should have been there.

Commissioner Dodd said he requested a specific Zoning Officer to be present at the meeting and received a response back that stated that staff was directed by the Town Manager and not the Commission and that any assistance needed would be provided by the Town Manager. Commissioner Dodd wanted to know whether special events were at their noisiest time between 9:00 and 10:00 p.m. Assistant Town Manager believed it was possible. Commissioner Dodd wanted to know how many readings were done during that time period. Assistant Town Manager stated that additional readings were done. Commissioner Dodd wanted to delay the ordinance to allow readings when the noise was at its loudest.

Manager Colon stated that the ordinance did have a provision for special events. She added that BSO had informed her that there were no noise issues the past 2 weekends. Manager Colon said if the Commission wanted Code Enforcement to go out at night and confirm what BSO had said they would do that with direction from the Commission.

Commissioner Clotley believed it was agreed that the measurement would be taken at 200 feet. She agreed the decibel and the hours could be changed. Commissioner Clotley did not believe anyone would want a decibel measurement of 90 at 200 feet from edge of their property. She asked the Town Attorney to verify how she came up with the decibel readings.

Attorney Trevarthen stated that the levels were in line with what other communities had and that was the basis of the starting point and the basis for the workshop. She said line 258 stated it "was" 200 feet for special event, and the language previously quoted "if not" a special event.

Commissioner Clotley stated that the complaint was not as the door opened to let people in and out; the complaint was continuous noise.

Vice Mayor McIntee said he would support an 85 decibel and if it was too high it could be lowered and if too low it could be made higher.

Mayor Minnet said that if all the businesses were here to comply why the Commission wasted their time with an ordinance. She was never in favor of the ordinance and thanked the business owners for everything they do for the Town.

Commissioner Silverstone stated that this ordinance was before the Commission to make the existing ordinance work.

Commissioner Dodd agreed with Commissioner Silverstone but believed staff was instructed to get values. He said they were all there when the highest reading was taken at 200 feet and was 95 decibels. He said everyone asked whether the businesses were going to turn the music up.

Commissioner Silverstone suggested a friendly amendment to make the decibel level higher. Commissioner Dodd proposed a friendly amendment to change to a 90 dba and 95 dbc as a reasonable compromise. Commissioner Clotey asked to include the measurement at 200 feet to be taken after 10:00 p.m.

Assistant Town Manager Olinzock stated that sometimes a reading could not be made at 200 feet as there was another building in the way. Mayor Minnet asked in that case, why it would affect the residents.

Commissioner Clotey added to the motion that they measure at the closest point beyond 200 feet.

Attorney Trevarthen clarified that the friendly amendment to the motion was to change on line 328, 75 dba or 80 dbc to 90 dba or 95 dbc. She added that the original motion was to change on line 333, "75 dba or 75 dbc" for overnight to "60 dba or 75 dbc". Attorney Trevarthen stated that the 3rd change was where it was impossible to make a noise reading at 200 feet the reading should be taken at the nearest point beyond 200 feet.

Commissioner Silverstone stated that on line 333 the dba should remain at 75 dba and 75 dbc. Vice Mayor McIntee agreed. Attorney Trevarthen clarified that there was no change at line 336.

Attorney Trevarthen questioned the version in the backup. Commissioner Dodd said it should have been the June 9th version which included the ability to legally have fireworks on July 4th. He added that the Commission had not voted on steam whistles.

Commissioner Dodd made a motion to remove the reference to steam engines in line 86 and remove steam whistles, steam engines needing a muffler, no noise allowed on any street adjacent to a school, institution of learning or hospital in lines 90 and 91. Attorney Trevarthen asked whether that entire paragraph was to be deleted and also lines 83 and 84 for steam whistles. Commissioner Dodd agreed.

Mayor Minnet pointed out that that line says "except to give notice of time to begin or stop work as a warning of danger". She believed that was what that was in reference to. Commissioner Dodd disagreed. Vice Mayor McIntee believed the fire siren alerts for tornadoes were electronic devices and emergency devices.

Attorney Trevarthen pointed out that this was a list of prohibited noises and by removing it would open a broader group of noises that would be permitted. She added that the fire alarm would be fine.

Attorney Trevarthen reviewed the changes:

- 1) Deleting lines 83 to 84.
- 2) Deleting the word "steam engine" on line 86.
- 3) Deleting lines 90 to 93.
- 4) Revised language on lines 104 to 105 to include "The unpermitted explosion of firecrackers, skyrockets, Roman Candles, pinwheels or any other form of fireworks or the discharge of any firearms. This subsection shall not prohibit organized fireworks displays conducted in accordance with a special event permit issued pursuant to Article VIII of Chapter 17 of the Code".
- 5) On line 331 (333 in April 14th version) change dba to 90 and change dbc to 95
- 6) No change in line 333 (339 in April 14th version)
- 7) Measure at 200 feet or the nearest point to 200 feet.

The motion carried 4-1. Mayor Minnet voted no.

- d. Ordinance 2009-25: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 20, ARTICLE II, SECTION 20-19 PROVIDING FOR RATES AND CHARGES OF TOWN SANITARY SEWAGE DISPOSAL SERVICE; PROVIDING FOR CODIFICATION AS ARTICLE II OF CHAPTER 20 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE
Approved 1st reading July 14, 2009

Attorney Trevarthen read Ordinance 2009-25 by title.

Vice Mayor McIntee made a point of order to extend the meeting past 11:00 p.m. Commissioner Clotey made a motion to extend the meeting to 11:20 p.m. Commissioner Dodd offered a friendly amendment to take Ordinance 2009-25 and Consent Agenda item 12(a). Vice Mayor McIntee wanted to complete the agenda. Commissioner Dodd stated that his motion was to take Ordinance 2009-25 and Consent Item 12(a) and then recess the meeting. The motion carried 3-2. Vice Mayor McIntee and Commissioner Silverstone voted no.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting. Commissioner Silverstone made a motion to adopt Ordinance 2009-25 on second

reading. Commissioner Dodd seconded the motion. Vice Mayor McIntee requested an explanation of the ordinance.

Assistant Town Manager Olinzock explained that when Oriana was built they put in a 6" water meter and this ordinance addressed that meter size category.
The motion carried 5-0.

11. COMMISSIONER COMMENTS

12. CONSENT AGENDA

- a. Commission approval of contract agreement for construction of Bel-Air monument signs to Coastal Contracting, Inc. in the amount of \$19,900 (Assistant Town Manager Olinzock)**

Vice Mayor McIntee made a motion to approve the contract subject to Town Attorney approval. Commissioner Silverstone seconded the motion.

Dave Sainen said that the sign placement was to replace the signs that were there previously and removed by the Town.

Michael Powers concurred with Mr. Sainen opinion.

Mayor Minnet stated that she was elected to represent all the people of Lauderdale By-The-Sea. She agreed that there was a sign in place that was removed and agreed it should be replaced but believed it should have been opened up to every community. Mayor Minnet stated that other communities pulled together and provided their own funding.

Commissioner Clotey reminded everyone that this was not just a beautification project. She said whoever agreed to have the sewers installed left their entrance looking like a construction site and one morning the signs disappeared.

Commissioner Silverstone said there was a sign there and the sign was no longer there by action that was taken by the Town. He believed the Town should replace it.

Vice Mayor McIntee noted that the Town had nothing to do with the sewers; it was the City of Pompano Beach.

Commissioner Dodd believed Chen & Associates put in a bill for \$10,000 and thought that was an absurd figure.

The motion carried subject to Town Attorney review, 4-1. Mayor Minnet voted no.

With no further business before the Town, Mayor Minnet recessed the meeting at 11:22 p.m. to Wednesday July 29, 2009 at 2:30 p.m.

- b.** Commission approval for annual storm drain cleaning by TeleVac South as required by (NPDES) National Pollutant Discharge Elimination System \$39,000 (Assistant Town Manager Olinzock)
- c.** Commission approval for purchase of a new 2010 F150 4x4 \$17,556 (Assistant Town Manager Olinzock)
- d.** Commission approval for purchase an F250 with a Utility Bed not to exceed \$23,000 (Assistant Town Manager Olinzock)

13. RESOLUTION - "Public Comments"

14. QUASI JUDICIAL PUBLIC HEARINGS

- a.** Commission approval of re-designation of lot line front per request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Drive, to change the designated front yard per Town Code Chapter 30 from Seward Drive to West Terra Mar Drive (Assistant Town Manager Olinzock)
- b.** Town Commission to approve variance request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Dr. (Assistant Town Manager Olinzock)
- c.** Commission approval of a zoning variance regarding the dumpster enclosure for 101 Ocean Restaurant located at 101 Commercial Boulevard. The applicant is requesting exception to the Town's Zoning Code, Chapter 30 to allow the existing chain link enclosure to remain - BOA approval with condition (Assistant Town Manager Olinzock)

15. OLD BUSINESS

- a.** Commission approval of reduction of right-of-way permit performance bond for Villas By The Sea Development, as requested by Minto Communities, LOLC (Assistant Town Manager Olinzock) (Deferred at the June 23, 2009 Commission meeting by Vice Mayor McIntee) Request to defer to July 28, 2009 Deferred at the July 14, 2009 Commission meeting
- b.** Discussion and/or action regarding location and quantity of custom banners (Assistant Town Manager Olinzock) Deferred at the July 14, 2009 Commission meeting
- c.** Discussion and/or action of FWC application for parking permits at the beach (Commissioner Dodd) Requested at the July 14, 2009 Commission meeting
- d.** Discussion and/or action of Beach and Residential Parking Permit Fees (Mayor Minnet) Requested at the July 14, 2009 Commission meeting

- e. Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee) This item was deferred at the April 28, 2009 Commission meeting to the July 28, 2009 Commission meeting by Vice Mayor McIntee
- f. Discussion and/or action to reschedule the Round Table that cancelled on June 30, 2009 (Mayor Minnet)
- g. Discussion and/or action regarding pavilion drainage (Commissioner Dodd)
- h. Discussion and/or action concerning review of the Town Manager as required by the Charter. New date to be set by the Commission for the Round Table review (Commissioner Dodd)

16. NEW BUSINESS

- a. Discussion and/or action regarding Heroes awards (Requested at the May 27, 2009 Commission meeting by Vice Mayor McIntee)
- b. Discussion and/or action regarding the installation of drainage on Bougainvilla Drive from Pine Ave to Commercial Blvd (Assistant Town Manager Olinzock)
- c. Discussion and/or action regarding Government Channel 78 Software Signage Update - \$4,755 (Manager Colon)
- d. Discussion and/or action to have public speakers state their full address (Mayor Minnet)
- e. Discussion and/or action to hold a budget meeting to allow citizen input before the meeting on September 14, 2009 by which time it will be too late (Commissioner Dodd)
- f. Discussion and/or action on extending the three months special events permits for Village Grille and Athena Restaurant known as Jazz on the Square and Elvis (Commissioner Dodd)
- g. Discussion and/or action regarding the audit company and the RFP's (Commissioner Dodd)
- h. Discussion and/or action on a storm water bond issue (Commissioner Dodd)
- i. There seems to have been a dual billing system for garbage collection services. Most paid the correct amount, a few paid less. This has been causing problems since the Town switched to Choice and everyone now is expected to pay the amount set by their dwelling's category. Switching these dwellings to the commercial rate or letting them have smaller totters would provide some financial

relief to these residents who do not need large totters (Commissioner Clottey)

- j. Discussion and/or action for a proclamation for Marc Furth (Commissioner Silverstone)

17. TOWN ATTORNEY REPORT

18. ADJOURNMENT

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

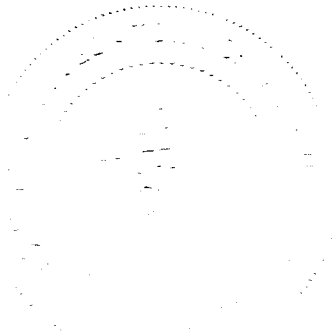
ATTEST:



Town Clerk, June White

9-10-09

Date



TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

MINUTES

Jarvis Hall

4505 Ocean Drive

Thursday, July 29, 2009

Continued from July 28, 2009

6:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 6:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Clotey were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. COMMISSIONER COMMENTS

Commissioner Clotey the Commission needed to lean heavily on the City of Pompano Beach to make sure that the lift station by Bel Air and other lift stations did not degrade the neighborhoods and need to be covered.

Commissioner Silverstone promised to be accountable. He said Chad Purcell had an issue with fishing off the beach and suggested a change in Charter.

Commissioner Dodd stated that the budget produced by the Town Manager was first class and professional. He said he was asked by the Town Manager whether the Chamber of Commerce should go out for an RFP. Commissioner Dodd suggested that if the Manager wanted to be extremely unpopular then she should and put the Welcome Center out for RFP. He wondered how the Town Manager would feel if the Commission put out an RFP for running the Town. Commissioner Dodd encourage recycling. He said that when a resident did not recycle they were throwing away money for the Town as the Town received dollars to recycle. Commissioner Dodd stated there were 3 organizational issues that needed to be changed; public comments, discussion at roundtable, and Quasi Judicial hearings. Commissioner Dodd looked forward to the break.

Vice Mayor McIntee stated that the budget process showed almost 11% decrease in taxes. He said there were major accomplishments over the past year; the Town received \$1 million to beautify El Mar Drive but it cost \$40 million to do the undergrounding throughout the Town, and \$4 million to do El Mar Drive conservatively.

He added that special events had also doubled. Vice Mayor McIntee said the VFD purchased new fire equipment which would increase their ISO rating.

Mayor Minnet thanked everyone for all their work regarding the El Mar Drive Streetscape project. She believed the Commission should re-evaluate whether the residents and tourists wanted to walk through the medians. Mayor Minnet thought a proclamation for Chief Gooding was a good idea and will bring it up on the next agenda.

4. CONSENT AGENDA

- a. Commission approval of contract agreement for construction of Bel-Air monument signs to Coastal Contracting, Inc. in the amount of \$19,900 (Assistant Town Manager Olinzock) This item was considered at the July 28, 2009 Commission meeting

This item was considered at the July 28, 2009 Commission meeting.

- b. Commission approval for annual storm drain cleaning by TeleVac South as required by (NPDES) National Pollutant Discharge Elimination System \$39,000 (Assistant Town Manager Olinzock)

Commissioner Dodd asked for an explanation of this item. Assistant Town Manager Olinzock stated that this was for the annual cleaning of storm drain structures. Commissioner Dodd saw no indication that an RFP had gone out. Assistant Town Manager Olinzock explained that in the past Lauderdale By-The-Sea had piggybacked and utilized other contractors. He added that recently a document had been put together for RFP next year so that the Town would not have to work with 2 different contractors for storm and sewer. Commissioner Dodd inquired as to how much of the sewer system was the Town responsible for. Assistant Town Manager Olinzock said that the sewers in the north, Old Town, belonged to the City of Pompano Beach and the infrastructure in the south end of Town belonged to Lauderdale By-The-Sea.

Commissioner Silverstone made a motion to approve. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

- c. Commission approval for purchase of a new 2010 F150 4x4 \$17,556 (Assistant Town Manager Olinzock)

Commissioner Dodd asked whether it would be better for this years' budget to purchase the vehicle now. Manager Colon advised that during the budget review it was noticed that another truck was requested for next year and a utility bed. She said Municipal Services wanted to sell the 2000 truck, get a 2nd truck, release \$25,000 from next years' budget and purchase a utility truck that would carry their equipment as in item 12d.

Discussion followed regarding purchasing a new truck verses repair of the transmission on a 10 year old truck.

Commissioner Silverstone made a motion to approve. Mayor Minnet voted no. Commissioner Dodd seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

- d. Commission approval for purchase an F250 with a Utility Bed not to exceed \$23,000 (Assistant Town Manager Olinzock)

Commissioner Dodd made a motion to approve. Mayor Minnet voted no. Vice Mayor McIntee seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

5. RESOLUTION - "Public Comments"

6. QUASI JUDICIAL PUBLIC HEARINGS

Attorney Trevarthen swore in those wishing to speak.

- a. Commission approval of re-designation of lot line front per request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Drive, to change the designated front yard per Town Code Chapter 30 from Seward Drive to West Terra Mar Drive (Assistant Town Manager Olinzock)

Karen D'Uva stated that the survey showed W. Terra Mar Drive as her front yard but according to records Seaward Drive was considered her front yard. She said her mail came to W. Terra Mar Drive as did her taxes. Ms. D'Uva requested the Commission designate W. Terra Mar Drive as her front yard.

Assistant Town Manager Olinzock stated that in order grant the request the variance would have to be approved for the encroachments that would exist on the front yard. He explained that the new front yard would have part of the building within the 25 foot setback.

Attorney Trevarthen explained the criteria for a variance as per Town Code Section 30-8 (e) (3).

Commissioner Clotey made a motion to approve. address change. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- b. Town Commission to approve. variance request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Dr. (Assistant Town Manager Olinzock)

Attorney Trevarthen swore in those wishing to speak.

Petitioner requested the Commission go along with the recommendation of the Board of Adjustment and grant the variance.

Assistant Town Manager Olinzock read the results of the July 14, 2009 Board of Adjustment which was to grant the variance under the condition that the applicant go before the Town Commission to gain approval to allow the fence to remain in its present location and to allow the shed to encroach into the setback and allow a swimming pool into the 25 foot setback.

Mayor Minnet asked for the recommendation of the Town Engineer. Assistant Town Manager Olinzock stated that Chen & Associates recommended the variance not be granted.

Board of Adjustment Chairman Mr. Crossman stated that every pool had to have a fence and the fence had to be 10 feet from the public right-of-way line. He added that without the variance there would be 10 feet between the fence and the house to put the pool and the decking. Mr. Crossman said the variance was the only way to get the fence, the pool and decking in the space. He said the Board of Adjustment recommended leaving the shed where it was and grant the variance.

Mr. Couriel said there was no way to build the pool on the property or many properties in Lauderdale-By-The-Sea the way the Code currently read. He said the setback requirements were very strict and made it difficult for someone to put in a pool in their side or back yard. Mr. Couriel stated that the shed was installed without a permit but the Board of Adjustment decided to overlook it as to not cause any more hardship. He explained that the recommendation of Chen & Associates did not currently apply as their recommendation applied when the front yard was on Seaward Drive and should not be considered at this point.

Vice Mayor McIntee was concerned that if the Commission approved a pool with no restrictions and a 10 foot encroachment in a side yard then all future requests for a side yard pool would have to be granted. Vice Mayor McIntee believed that Chen & Associates would have the same recommendation, even though the front yard was currently on W. Terra Mar Drive, simply because there was no room for a pool in the side yard.

Mr. Crossman recommended placing the fence on the property line which would give the required room.

Commissioner Silverstone did not believe it met code requirements and thought the Commission should look at changing the Code.

Commissioner Clottey asked whether the pool could be closer to the house. Mr. Couriel said the original request for a larger pool and the size was reduced. He said that was the only space and size for the pool.

Commissioner Dodd believed every case should be considered on its merit. He agreed with Commissioner Silverstone to look at the current code and make necessary adjustments.

Ms. D'Uva said she had moved the pool closer to the house. She asked the Commission to approve her request for a variance.

There were no further comments.

Commissioner Dodd made a motion to approve the variance. Commissioner Clotey seconded the motion. The motion failed 3 - 2. Mayor Minnet voted no. Vice Mayor McIntee voted no. Commissioner Silverstone voted no.

- c. Commission approval of a zoning variance regarding the dumpster enclosure for 101 Ocean Restaurant located at 101 Commercial Boulevard. The applicant is requesting exception to the Town's Zoning Code, Chapter 30 to allow the existing chain link enclosure to remain - BOA approval with condition (Assistant Town Manager Olinzock)

Attorney Trevarthen swore in those wishing to speak.

Mr. Brennan explained that they could not put wood fencing as required by Code on a concrete base and in its place placed a chain link fence. He said he was told to either tear out the fence or apply for a variance. Assistant Town Manager Olinzock stated that the Board of Adjustment recommended the approval. Manager Colon said there were other businesses using chain link fencing and showed them in her previous presentation on trash. After some discussion it was determined to be the mistake of the Town.

Commissioner Dodd believed either change the Code or change the staff. He suggested Mr. Brennan be allowed to keep his fence but when it came time to replace it he would have to comply with current code.

Vice Mayor McIntee supported the fence for 101 Ocean only. Vice Mayor McIntee asked if the Commission agreed would Mr. Brennan replace the fence with a wooden fence when that time came. Mr. Brennan agreed.

Attorney Trevarthen asked for final statements. There were none.

Vice Mayor McIntee made a motion to approve the variance with the condition that when it came time to replace the fence it would be replaced with a conforming fence. Commissioner Dodd seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

7. OLD BUSINESS

- a. Commission approval of reduction of right-of-way permit performance bond for

Villas By The Sea Development, as requested by Minto Communities, LOLC (Assistant Town Manager Olinzock) (Deferred at the June 23, 2009 Commission meeting by Vice Mayor McIntee) Request to defer to July 28, 2009 Deferred at the July 14, 2009 Commission meeting

Manager Colon stated that Minto provided a completion date of 2012 on a \$100,000 bond.

Vice Mayor McIntee made a motion to approve. Commissioner Silverstone seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

b. Discussion and/or action regarding location and quantity of custom banners (Assistant Town Manager Olinzock) Deferred at the July 14, 2009 Commission meeting

Assistant Town Manager Olinzock stated there were 13 banners total to be placed at the south end of A1A with arrows and the others at the north end of Town and on Commercial Boulevard going east. He added the total cost was \$731.50.

Vice Mayor McIntee made a motion to accept Commissioner Clotey believed the 3 signs at the south end should have arrows on them. Vice Mayor McIntee amended his motion to include the arrows as per Commissioner Clotey's request. Commissioner Silverstone seconded the amendment. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

c. Discussion and/or action of FWC application for parking permits at the beach (Commissioner Dodd) Requested at the July 14, 2009 Commission meeting

Commissioner Dodd stated that the Florida Fish and Wildlife Association asked him to put this item back on agenda to reconsider their parking permits and grant their original request.

Commissioner Dodd made a motion to grant original request for parking permits. Discussion followed. Commissioner Silverstone seconded the motion.

The Commission agreed to allow parking at the Beach Portals only to unload heavy equipment and then they had to park elsewhere. It was also agreed that if abused Parking Enforcement would be directed to issue citations.

The motion was amended to request the Town Manager alert Parking Enforcement. Commissioner Dodd and Commissioner Silverstone accepted the amendment. Vice Mayor McIntee asked whether industrious vehicles would be allowed to park at the beach portals.

Commissioner Dodd amended the motion to allow parking at the Beach Portals for service vehicles only. Commissioner Silverstone accepted. The motion carried 4 - 1. Commissioner Clotey voted no.

d. Discussion and/or action of Beach and Residential Parking Permit Fees (Mayor Minnet) Requested at the July 14, 2009 Commission meeting

Mayor Minnet pointed out that beach parking at \$20 a year presented a potential loss of revenue of \$65,000 for beach parking. She believed this was something to look at during budget time for next years' budget.

Commissioner Silverstone stated that non-resident beach parking should be increased. He added that the hourly cost at the El Prado beach parking lot was \$1.25 an hour.

Commissioner Silverstone made a motion to approve. an increase to the parking meter rates at the El Prado Parking Lot to \$1.50 an hour. 0 seconded the motion.

Commissioner Dodd believed both the resident and beach parking permits should be \$50. He supported Commissioner Silverstone on the increased meter rate.

Vice Mayor McIntee pointed out that the Resolution would need to be updated. Commissioner Dodd suggested discussion at Roundtable first for a consensus. Mayor Minnet agreed. Commissioner Silverstone withdrew his motion to table to Roundtable. Mayor Minnet stated that a date for Roundtable would be determined during item 7h.

Mayor Minnet recessed the meeting at 4:10 p.m. and reconvened the meeting at 4:20 p.m.

e. Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee) This item was deferred at the April 28, 2009 Commission meeting to the July 28, 2009 Commission meeting by Vice Mayor McIntee

Vice Mayor McIntee withdrew this item.

f. Discussion and/or action to reschedule the Round Table that cancelled on June 30, 2009 (Mayor Minnet)

This item was pulled at the July 28, 2009 Commission meeting.

g. Discussion and/or action regarding pavilion drainage (Commissioner Dodd)

Commissioner Dodd put this back on the agenda to give everyone an idea of some of the problems he had. He wanted to know why the Town was up to their neck in water and what forethought went into the design to create the current problem and what designs or plans for drainage were removed from the original plans for the pavilion. What proposals were drawn up prior to the pavilion problem and what was the current

cost of sand. Commissioner Dodd called Coastal Construction and as a result raised several more issues: 1) When was the Town first aware of the drainage problem.

Assistant Town Manager stated it was around January or February of this year. 2) If the problem was encountered during construction what method was followed? Commissioner Dodd believed there was a pavilion problem and there should have been a change order. He said his solution was to address the Aruba River and keep it separate from pavilion drainage. Assistant Town Manager said it was not a pavilion problem; it was another problem and had to go to Broward County.

Manager Colon stated that a memo was sent stating that the original scope did not include drainage and offered 2 options. She stated there were no stormwater funds and will continue to bring the drainage problems before the Commission until she receives direction. Manager Colon said the drainage issue went out for RFP.

Mayor Minnet believed the situation needed to be taken care of and will be in the near future.

Vice Mayor McIntee said the flood was gone about an hour after it stopped raining. He believed the drainage may not have been done properly and things happen during construction, but the Town was trying to get things done.

h. Discussion and/or action concerning review of the Town Manager as required by the Charter. New date to be set by the Commission for the Round Table review (Commissioner Dodd)

Commissioner Dodd said the review of the Town Manager must be carried out prior to the adoption of the budget and wanted that to be the first order of business at the Roundtable.

Commissioner Dodd made a motion to make the review of the Town Manager as the first order of business at the Roundtable. Commissioner Clotey believed that variables needed to be done first and asked that variables be done first at the roundtable and then come back and do the review at the next roundtable. Commissioner Dodd hoped that each Commissioner would have their own items they wish to review in a constructive fashion and proceed with their review in their own way. He did not believe there should be a format in which to do the review but there could be certain topics they want to review on. Commissioner Clotey agreed but believed those topics should be discussed at the next roundtable and the actual review at the next roundtable.

Commissioner Dodd said that would have to be before September the 15th as required by Charter.

The motion died for lack of a second.

Commissioner Dodd requested for a date for the next roundtable. Vice Mayor McIntee questioned where the Charter stated that a review of the Town Manager was required. He pointed out that Town Manager Baldwin was never reviewed. Commissioner Dodd excused himself and stated that it was in the contract not the Charter. Manager Colon pointed out that the contract stated a review of the Town Manager as well as the Mayor and the Commission.

The motion died for lack of a second.

Commissioner Dodd made a motion to schedule a Roundtable on September 10, 2009 from 5:00 p.m. to 7:00 p.m. to discuss the parameters for the review of the Town Manager, beach permitting and parking fees. Attorney Trevarthen pointed out that the final budget hearing was September 28, 2009. Mayor Minnet agreed there was ample time to set up another Roundtable.

Commissioner Clotey seconded the motion. The motion carried 5 - 0.

8. NEW BUSINESS

a. Discussion and/or action regarding Heroes awards (Requested at the May 27, 2009 Commission meeting by Vice Mayor McIntee)

Vice Mayor McIntee believed citizens should be recognized for going above and beyond. He explained the different levels of awards: 1) Medal of Honor the highest level, for saving a life or losing a life to save a life 2) Medal of Valor for a heroic event and 3) Medal of Merit for doing a great deal for the community.

After some discussion regarding other forms of recognition such as rings or a Key to the City, the Commission decided to discuss further at Roundtable.

Commissioner Dodd made a motion to defer to the September 10, 2009 Roundtable for further discussion. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

b. Discussion and/or action regarding the installation of drainage on Bougainvillea Drive from Pine Ave to Commercial Blvd (Assistant Town Manager Olinzock)

Assistant Town Manager Olinzock stated that as drainage items came before the Town it would be brought before the Commission for direction. He stated that the fee to prepare the documentation for this project was \$8,400 and the projected cost for the whole project was \$341,187 from Commercial Boulevard to Pine Avenue.

Commissioner Dodd disagreed with \$80,000 and thought that the Town photographer could be paid a nominal fee to take pictures of puddles and come up with a set of priorities.

Sean Bamforth stated that there were 2 big issues with drainage; aging infrastructure and due to a lack of stormwater utility fee, the sewers could not be fixed, and a lack of a drainage system such as that in front of the Vice Mayor's house. He said Chen & Associates could prioritize a list and suggest required improvements. Mr. Bamforth added that provided with that information the Commission could determine the overall cost and budget accordingly, starting at the top and work down.

Manager Colon said when she spoke with Commissioner Dodd the \$80,000 was how they were able to establish the assessment fee. She added that to do a study now it would cost \$98,000. Manager Colon asked that when Commissioner Dodd said he did not want to piece meal did he mean they were not to do the Commercial Boulevard Drainage because that was the first project they addressed, and would use those funds to put toward a storm water study he thought needed to be done for a priority list.

Vice Mayor McIntee made a motion to give an official warning to Barbara Cole to refrain from interrupting the meeting. Commissioner Silverstone seconded the motion. The motion failed 2 - 3. Mayor Minnet, Commissioner Dodd and Commissioner Clotley voted no.

Commissioner Dodd said he wanted priorities set so that there was no question of impropriety. Manager Colon said they would have to pay the Engineer to do the study and if there were no funds to do the drainage, and no funds to pay the Engineer what did he suggest. Commissioner Dodd thought it was better to spend the \$8,400 to get Chen & Associates to give the top 10 priorities. Mr. Bamforth said he would crunch numbers and it would cost approximately \$20,000 to \$30,000 in design and approximately \$90,000 to do the entire Town.

Vice Mayor McIntee said a professional job could not be done for \$8,400. Mr. Bamforth said he would just get a list of 10 sites.

Commissioner Silverstone suggestion reinstating a storm water fee and will put on a future agenda or roundtable to discuss it.

Commissioner Clotley pointed out that people would not be able to deduct the storm water fee from their taxes. She favored Commissioner Dodd's idea and thought that in the interim they could determine where the water was and how deep it was. Mr. Bamforth thought that rainy season would be over before they could make those improvements.

Mayor Minnet believed the different opportunities were something to look at along with the tax rate. She believed the Ad Valorem could be kept low and perhaps ad funds to address the issues.

Peggy Mohler was allowed to speak. She said Aruba never had a drainage problem and other businesses drain into the pavilion such as the Village Grille, Scotts and the pier. Ms. Mohler said it was incorrect to say the problem was "Aruba's River". She

believed lowering taxes would get nowhere and suggested assessing the businesses like Ft. Lauderdale did to beautify their beach.

There was no further discussion.

Mayor Minnet recessed the meeting at 5:45 p.m. and reconvened at 5:48 p.m.

c. Discussion and/or action regarding Government Channel 78 Software Signage Update - \$4,755 (Manager Colon)

Steve d'Oliviera stated that Channel 78 would benefit from the software upgrade as it would allow the ability to improve safety during hurricane season and improve communication with the residents. He added the software had a one time cost that included training and he would recommend a memory upgrade at minimal cost later. Mr. d' Oliviera explained that last year the music contract with Comcast was terminated and noted that he found additional software, 2 CD's that allowed music at \$79 dollars each; a savings of over \$3,600.

Commissioner Dodd made a motion to approve. Commissioner Silverstone seconded the motion.

Commissioner Clotey questioned the status on a suggestion to extend wireless internet access. Manager Colon stated that the only place wireless service was available was in Jarvis Hall because it cost approximately \$200,000 to extend it.

The motion carried 5 - 0.

d. Discussion and/or action to have public speakers state their full address (Mayor Minnet)

Mayor Minnet wanted to discuss whether the Commission wanted the public to state their full address. She asked that public speakers print their name and asked for clarification on the time frame for public speaking.

Commissioner Dodd believed that people would not want to broadcast that Mr. or Mrs. Blank were not at home and it should be left up to the individual. He felt the speakers could leave their name and address with the Clerk.

Commissioner Dodd made a motion for staff to follow up on any and all complaints received during public comments. Mayor Minnet said she had noticed that staff was did talk with the residents during the meetings. Vice Mayor McIntee said they already did that and felt that was an insult to the Town Manager. Commissioner Dodd felt that if someone came before the Commission with a complaint it should be followed up. Commissioner Clotey seconded the motion for discussion.

Commissioner Silverstone had not heard there was an issue that the Town had not followed up on. He believed it was part of the Commission's job to follow up on complaints they get. Commissioner Silverstone believed each speaker should be allowed to speak only once for 3 minutes as it was out of control.

Commissioner Clotey thought that people should only speak once, either during public comments or during an item; if they want to speak on both then they should speak during public comments. Commissioner Clotey did not feel that someone should give up their 3 minutes to allow someone else to speak in place of their time. She believed the meetings were taken too long.

Vice Mayor McIntee believed public comments were being abused. He noted one person came up 5 times and spoke a total of 18 minutes.

Commissioner Dodd believed the rule was set to speak for 3 minutes during public comments and again on any subject that was on the agenda. Vice Mayor McIntee agreed and felt it was one reason the meetings ran 6 and 7 hours. He added that people were coming in after the signature sheet was gone and people came up to Nekisha to add names. Mayor Minnet questioned that and Nekisha confirmed.

Vice Mayor McIntee stated that when people refer to dais members as "Gestapo" or "storm troopers" was over the line. He said the Mayor had an obligation to control decorum.

Attorney Trevarthen wanted to make sure the Commission did not set a rule regarding "Public Hearings". She said it was up to the Commission to deny public comments but could not deny the right to speak during true "Public Hearings".

Vice Mayor McIntee made a motion to for public speakers to give their address. Commissioner Silverstone seconded the motion. The motion carried 3 - 2. Mayor Minnet and Commissioner Dodd voted no.

- e. Discussion and/or action to hold a budget meeting to allow citizen input before the meeting on September 14, 2009 by which time it will be too late (Commissioner Dodd)

Commissioner Dodd asked whether the budget could be changed on September 14, 2009 and before September 28, 2009. Manager Colon said yes but the millage rate could not be increased. She stated that it was preferable to reconcile the budget prior to the Commission meeting rather than do accounting on the dais.

There was no further discussion.

- f. Discussion and/or action on extending the three months special events permits for Village Grille and Athena Restaurant known as Jazz on the Square and Elvis (Commissioner Dodd)

Commissioner Dodd stated that unless the Commission re-evaluation the 3 month decision taken on April 28, 2009, there would be no Jazz on the Square or Elvis until the Commission returned in September.

Commissioner Dodd made a motion to grant an extension for a further 3 months. Commissioner Clottey seconded the motion for discussion. Commissioner Clottey seconded the motion.

Commissioner Clottey believed that when a special event was approved it should be approved for the area in front of the building that the applicant owned only and they should not be allowed to set up in front of another restaurant and use their servers. She asked whether the Commission thought that was fair.

Commissioner Silverstone said that a special event affected other businesses in Town and wondered whether all the businesses should apply. As for the extension, Commissioner Silverstone pointed out that the business owner was supposed to re-apply prior to the expiration and he did not. He added that granting the extension would reverse the Commission's decision.

Commissioner Dodd argued that the decision was up to the Commission to grant another 3 months. He added that a special events application had to be submitted 60 days in advance for approval. Commissioner Dodd added that if the Commission granted the extension Village Grille and Athena's Restaurant could put their application in now for the next period.

Mayor Minnet asked whether there were any complaints and whether staff had a problem extending the event. Manager Colon said the only issue was that they did not follow the process.

Vice Mayor McIntee asked for confirmation that the Commission agreed to approve events quarterly. Assistant Town Manager Olinzock said it was for 3 months. Vice Mayor McIntee asked whether a special event application was submitted in May for an August event. Assistant Town Manager Olinzock said it was not. He added that the businesses indicated to Code Enforcement that the summer months were typically too hot and rainy.

Dave Gadsby, Village Grille was under the impression that the dais was to review in 3 months and therefore, he did not think the permit would expire. He agreed that it was too hot and rainy in the month of September and usually did not do anything then.

Vice Mayor McIntee suggested allowing a 1 month extension which would allow the business owners to submit their application for October, November and December. Commissioner Clottey suggested a 60 day extension. Vice Mayor McIntee agreed. Mr. Gadsby agreed. Mr. Marchelos said the tables in front of 101 Ocean were purchased by

101 Ocean and 101 Ocean serviced the tables.

Discussion continued as to whether 101 Ocean was listed on Athena's permit as part of the special event as there were possible sales tax problems and liquor laws.

Commissioner Dodd said he previously made a motion to grant a 3 month extension. Commissioner Silverstone seconded the motion with a friendly amendment to grant the extension for 60 days. Commissioner Dodd accepted the amendment.

Mayor Minnet noted the motion applied to Ville Grille and Athena Restaurant for Jazz on the Square and Elvis. Vice Mayor McIntee notified the business owners that they would need to re-apply every 3 months which was 60 days prior to the 3 month anniversary. The motion carried 5-0.

Commissioner Dodd asked for clarification as to when a fee would be assessed should Code Enforcement be called out to the business. Manager Colon said that should BSO determine there was a violation of the Code, and a Code Enforcement Officer had to go out there, there would be a fee. Commissioner Dodd wanted to know if they had to pay the fee if they were innocent. Commissioner Clotey stated that, as explained at the previous meeting, that if a complaint was put in, BSO would investigate and advise the business owner to stop. She added that should BSO return there and determine that there was a problem, only then would BSO call Code Enforcement. Commissioner Dodd did not feel that the business owner should be charged if they are innocent. Manager Colon did not believe that BSO would make a mistake after a second finding, but if they did then the Town would eat the expense of a call out pay. Vice Mayor McIntee did not believe BSO would call someone from home to investigate unless it was necessary.

g. Discussion and/or action regarding the audit company and the RFP's
(Commissioner Dodd)

Commissioner Dodd did not realize the contract with Rachlin was a 3 year contract. He requested the Town Manager terminate the contract and go out for RFP. Commissioner Dodd believed they may get a better price.

Commissioner Dodd made a motion to cancel the current contract and go out for RFP. Commissioner Silverstone seconded the motion for discussion.

Manager Colon clarified it was an engagement letter. She said auditing companies were RFP'd by qualification and not by price. Manager Colon said it was on the agenda and the document stated it was renewable at the option of the Town. She added that auditors usually have a 3 year engagement. Manager Colon stated that at the time the document was on the agenda she clearly stated she was going to sign the engagement letter.

Commissioner Silverstone stated that the request to go out for RFP should have been done at the time the document was presented to the Commission.

Manager Colon asked Commissioner Dodd to please call the office when he had an issue or found a mistake as Mayor Minnet did, so that staff could handle it prior to the Commission meeting. She said it was getting too personal.

Vice Mayor McIntee believed that Commissioner Dodd had to stop treating staff like they were his enemy and start working with them. He referred to the Ordinance that was placed in the back up in error. Vice Mayor McIntee stated that a simple telephone call when he received the backup would have solved the problem, but instead Commissioner Dodd chose to announce it in public.

Commissioner Dodd stated that it was not a question of "gotcha". He read the backup that he was supplied with and will carry on with his research and if the information he received was wrong that was how he based his research. Commissioner Dodd said he was not accusing the Town Manager of doing anything wrong. He believed the Town should go out for RFP on everything.

Commissioner Clottey requested that the Town Manager go out for bid for next year.

Commissioner Dodd amended his motion to go out for RFP for the next fiscal year. Attorney Trevarthen amended the motion to read "follow the appropriate processes to obtain bids to do the work". She added it would not be an RFP. Commissioner Dodd accepted.

The motion carried 5-0.

h. Discussion and/or action on a storm water bond issue (Commissioner Dodd)

This item was withdrawn.

i. There seems to have been a dual billing system for garbage collection services. Most paid the correct amount, a few paid less. This has been causing problems since the Town switched to Choice and everyone now is expected to pay the amount set by their dwelling's category. Switching these dwellings to the commercial rate or letting them have smaller totters would provide some financial relief to these residents who do not need large totters (Commissioner Clottey)

This item was withdrawn.

j. Discussion and/or action for a proclamation for Marc Furth (Commissioner Silverstone) This item was removed at the July 28, 2009 Commission meeting

This item was removed at the July 28, 2009 Commission meeting.

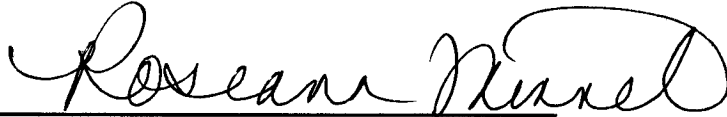
9. TOWN ATTORNEY REPORT

There were no reports.

10. ADJOURNMENT

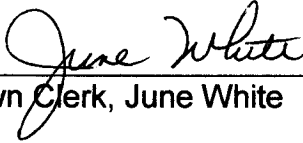
Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 6:50 p.m.

11. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

10/20/09

Date

